NOTIFICATION. 552

Order No. Rl. 100—*Legis.* 6-42-1, *dated Bangalore, the 22nd July* 1942.

Ordered that the accompanying Mysore Debt Conciliation (amendment) Act, 1942, which received the assent of His Highness the Maharaja, on the 7th day of July 1942, be published as Act No. XXVII of 1942, in the *Mysore Gazette*, for general information.

C. NARAYANASWAMY NAIDU,
Secretary to Government,
Law Department.

ACT No. XXVII OF 1942.

THE MYSORE DEBT CONCILIATION (AMENDMENT) ACT, 1942.

(Received the assent of His Highness the Maharaja on the seventh day of July 1942.)

Whereas it is expedient to amend the Mysore Debt Conciliation Act, 1937 ; It is hereby enacted as follows:—

1. This Act may be called the Mysore Debt Conciliation (amendment) Act, 1942. Short title.

2. In clause (e) of section 2 of the Mysore Debt Conciliation Act, 1937 (hereinafter referred to as the said Act), the following words shall be added after the figure "1888" namely:— Amendment of section 2, Act VI of 1937.

"or any liability in respect of maintenance, whether under decree of Court or otherwise,"

3. In section 3 of the said Act, sub-sections (4) and (5) shall be re-numbered as sub-sections (5) and (6), respectively, and after sub-section (3), the following sub-section shall be inserted, namely:— Amendment of section 3, Act VI of 1937.

"(4) A Board having the prescribed quorum may act notwithstanding any vacancy through death, resignation or removal in the number of its members other than the Chairman,"

Insertion of new section 4-A in Act VI of 1937

Application for settlemen of joint debts.

4. After section 4 of the said Act, the following section shall be inserted, namely :—

"4-A. If a debtor is jointly liable with other persons for a debt, he may make an application under sub-section (1) of section 4 for relief in respect of his liability in regard to such debt, and the Board, after consideration of the facts and circumstances of the case may pass such orders as it thinks fit regarding the debt so far as such applicant is concerned and such orders of the Board shall not be questioned in any Civil Court :"

"Provided that an order of the Board under this sub-section shall not affect the liability of any other person who is jointly liable with the debtor for the debt, but in no case shall the creditor, to whom the debt is due, be entitled to realise more than his dues from the persons jointly liable."

Amendment of section 9, Act VI of 1937.

5. (1) In clause (*b*) of section 9 of the said Act, the following proviso shall be added before the word "; or" at the end of the existing proviso, namely :—

"Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (3) of section 8, the Board may allow against the debtor such costs as it considers reasonable."

(2) Section 9 of the said Act shall be renumbered as sub-section (1) of section 9 and after the said sub-section, the following sub-section shall be inserted, namely :—

"(2) The Board shall dismiss the application made under sub-section (1) of section 4 if it is satisfied that the debtor has within two years previous to the date of the first application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor."

Amendment of section 14, Act VI of 1937.

6. In section 14 of the said Act,—

(1) the second proviso to sub-section (1) shall be omitted ;

(2) sub-sections (2), (3) and (4) shall be renumbered as sub-sections (3) (4) and (5), respectively, and after sub-section (1) the following sub-section shall be inserted, namely :—

"(2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by

the debtor for the settlement of any debt not included in the amicable settlement as a fair offer which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer :

Provided that for the purposes of this sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description :

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal" ;

(3) in sub-section (3) as renumbered, after the figure and brackets, "(1)", the following words, figure and brackets shall be inserted, namely :—

"or an order passed under sub-section (2)" ; and

(4) the following sub-section shall be inserted at the end, namely :—

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only."

(5) For sub-section (4) as renumbered the following sub-section shall be substituted namely :—

"3 (a) Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for the Chairman or any member of the Board or any party who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2) to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in section 58 of that Act.

"(b) The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement."

Insertion of new section 14-A in Act VI of 1937.

7. After section 14 of the said Act, the following section shall be inserted, namely :—

"14-A. When an agreement or an order registered under sub-section (3) of section 14 relates to a debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement or the order, until such amount has been paid or the property has been sold for the satisfaction of such debt."

Insertion of new sections 18-A to 18-D in Act VI of 1937.

8. After section 18 of the said Act, the following sections shall be inserted, namely :—

Power to deposit amount of instalment with the Deputy Commissioner.

"18-A. (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement or order registered under the provisions of this Act, or if in any case, the debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Deputy Commissioner for permission to deposit such amount with him.

(2) An application made under sub-section (1) shall be in writing and shall contain—

(*a*) a statement of the grounds on which it has been made;

(*b*) the name of the creditor to whose credit the deposit is to be entered, and

(*c*) the name of the person to whom payment was last made and of the person now claiming it.

18-B. (1) If it appears to the Deputy Commissioner that the applicant is entitled to make the deposit under section 18-A, he shall receive such deposit and give a receipt therefor.

"(2) The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it."

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18-C. A debtor who has made a deposit under section 18-B shall be held to have fulfilled the terms of the agreement or the order.

Debtor to be deemed to have fulfilled terms of agreement.

18-D. No suit or other legal proceeding shall be instituted against any officer in respect of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 18-B."

Bar of suits and other legal proceedings.

9. In sub-section (1) of section 19 of the said Act, the word "and" at the end of clause (v) shall be omitted and after clause (vi), the following word and clause shall be added, namely :—

"and

(vii) the repaying capacity of the debtor."

10. For sub-section (1) of section 18 of the said Act, the following sub-section shall be substituted, namely :—

"18 (1) If a debtor defaults in paying any amount awarded as costs under the second proviso to clause (b) of sub-section (1) of section 9, or any amount due in accordance with the terms of an agreement registered under sub-section (3) of section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within 90 days from the date of default accompanied by a certificate from the Board regarding the amount due.

Amendment of section 19, Act VI of 1937.

11. In sub-section (3) of section 19, for the words, figures and brackets "sub-section (2) of section 14", the words, figures and brackets "sub-section (3) of section 14" shall be substituted.

N. MADHAVA RAU,
Dewan.

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